

REMARKS

Further and favorable reconsideration is respectfully requested in view of the foregoing amendments and following remarks.

Entry of the amendments is proper under 37 CFR §1.116, because the amendments place the application in condition for allowance and do not raise any new issue requiring further search and/or consideration. The amendments are necessary and were not earlier presented, because they are made in response to arguments raised in the final rejection. Entry of the amendments is thus respectfully requested.

Claims 1 and 3-10 are pending in this application.

Claim 1 has been amended to recite “a metal-containing yeast comprising 0.01% to 5.0% by weight of a trace metal selected from the group consisting of Mg, Zn, Fe, Cu, Co and Mn relative to the total amount of the foodstuff”; and to recite “a protein component of 8% or less by weight relative to the total amount of the foodstuff”. Support for these amendments can be found on page 8, lines 5-9, page 9, lines 22-24 and Table 1 of the specification. Claim 1 has also been amended to make minor editorial changes, which are self-explanatory.

Claims 5 and 6 have been amended to correspond with the amendments to claim 1.

I. Claim Rejection Under 35 U.S.C. § 103

The Examiner rejects claims 1 and 3-10 under 35 U.S.C. § 103(a) as being unpatentable over Nakashima et al. (U.S. 5,126,143) in view of Farmer (U.S. 6,461,607) and FR 2244464, as evidenced by Lasater et al. (U.S. 5,200,218). As applied to the amended claims, Applicants respectfully traverse the rejection.

Claim 1 is directed to a food composition for lowering blood concentration of low-molecular-weight nitrogen-containing compounds, which comprises a foodstuff comprising *Bacillus coagulans* and **a metal-containing yeast comprising 0.01% to 5.0% by weight of a trace metal selected from the group consisting of Mg, Zn, Fe, Cu, Co and Mn relative to the total amount of the foodstuff.**

The references do not teach or suggest “a metal-containing yeast comprising 0.01% to 5.0% by weight of a trace metal selected from the group consisting of Mg, Zn, Fe, Cu, Co and Mn relative to the total amount of the foodstuff”, as recited in claim 1.

The Examiner acknowledges that Nakashima et al. do not disclose the presence of *Bacillus coagulans* or metal containing yeast of 0.01% to 5% by weight in the food composition (see Office Action, page 3, lines 19-20). However, the Examiner asserts that FR 2244464 discloses Brewer's yeast, and that Brewer's yeast, as evidenced by Lasater et al., is a metal-containing yeast comprising metals including magnesium, zinc and iron (see Office Action, page 4, lines 4-9).

However, Brewer's yeast is not a metal-containing yeast comprising 0.01% to 5.0% by weight of **a trace metal selected from the group consisting of Mg, Zn, Fe, Cu, Co and Mn**, as recited in claim 1.

"Mineral-yeast", used in the present invention, is a metal-containing yeast cultivated so that the metal-containing yeast contains **a large quantity of trace metals**. According to the four enclosed "Quality Standards", the mineral-yeast used in the present invention is completely different from the Brewer's yeast disclosed in the FR 2244464 reference.

According to the "Quality Standards" in Attachment 1, **Mineral-yeast-Zn** contains 2000 ± 300 mg / 100 g of zinc (17,000 ppm - 23,000 ppm).

According to the "Quality Standards" in Attachment 2, **Mineral-yeast-Fe** contains 1500 ± 300 mg / 100 g of iron (12,000 ppm - 18,000 ppm).

According to the "Quality Standards" in Attachment 3, **Mineral-yeast-Mg** contains 400 ± 100 mg / 100 g of magnesium (3,000 ppm - 5,000 ppm).

As shown in paragraphs [0044] and [0045], and Fig. 1 of Attachment 4, the zinc concentration in a dried bacterial cell of Baker's yeast before processing (Processing time: 0 h) was almost 0 ppm. However, after the Baker's yeast was cultivated so that it contained a large quantity of zinc, the zinc concentration was 20,000 ppm - 35,000 ppm.

Thus, Applicants take the position that the Brewer's yeast disclosed in the FR 2244464 reference is completely different from the metal-containing yeast comprising 0.01% to 5.0% by weight of a trace metal (i.e., mineral-yeast) used in the food composition of claim 1.

Therefore, claim 1 would not have been obvious over the references.

Claims 3-10 depend directly or indirectly from claim 1, and thus also would not have been obvious over the references.

Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

II. Conclusion

For these reasons, Applicants take the position that the presently claimed invention is clearly patentable over the applied references.

Therefore, in view of the foregoing amendments and remarks, it is submitted that the rejection set forth by the Examiner has been overcome, and that the application is in condition for allowance. Such allowance is solicited.

Respectfully submitted,

Yasumi YUGARI et al.

/Andrew B.
By Freistein/

Digitally signed by /Andrew B. Freistein/
DN: cn=/Andrew B. Freistein/, o=WLP,
ou=WLP, email=afreistein@wenderoth.
com, c=US
Date: 2010.04.12 13:47:06 -04'00'

Andrew B. Freistein
Registration No. 52,917
Attorney for Applicants

ABF/emj
Washington, D.C. 20005-1503
Telephone (202) 721-8200
Facsimile (202) 721-8250
April 12, 2010